

FILED
UNITED STATES DISTRICT COURT
IN CLERK'S OFFICE
DISTRICT OF MASSACHUSETTS
2005 JAN 19 A 10:13

U.S. DISTRICT COURT
DISTRICT OF MASS.

SHELDON G. ADELSON,

Plaintiff,

v.

MOSHE HANANEL,

Defendant.

Docket No. 04cv10357RCL

**PLAINTIFF'S MOTION TO STRIKE PART II AND III OF THE
BRIEF OF THE DEFENDANT FILED TUESDAY, JANUARY 18, 2005
ENTITLED SUPPLEMENTARY MEMORANDUM OF HANANEL
IN SUPPORT OF MOTION TO DISMISS FOR FORUM NON CONVENIENS**

The plaintiff respectfully moves that this Honorable Court strike parts II and III of the Memorandum of the defendant filed on January 18, 2005 on the grounds that it exceeds the issues that the Court requested the parties to brief. The Court requested the parties to brief the issue of whether it could decide the question of forum non conveniens before it decided the issue of personal jurisdiction. The plaintiff followed the instructions of the court and did not attempt to deal with any of the recent developments that might appear to bear on the question of forum non conveniens. The Court stated that if it decided that it could not settle the question of forum non convenience until it first decided the issue of personal jurisdiction the parties would take the deposition of Mr. Hananel in Israel. Relying on the Court's statements of the future steps in the case the plaintiff briefed only the issue the Court specifically requested in its telephone

conversation. The plaintiff did not have the opportunity to conduct an investigation of the status and progress of the Israeli litigation.

The undersigned counsel hereby certifies that on January 18, 2005 at approximately 5:10 p.m. he held a telephone conference with Mr. James Hamilton, attorney for the defendant, informed him of the intention to file this motion and discussed the question of whether Mr. Hamilton would agree to the allowance of the motion or whether Mr. Hamilton could persuade counsel for the plaintiff not to make the Motion. The parties', despite a cordial conversation were unable to agree.

WHEREFORE, plaintiff prays that the Court strike parts II and III of defendant's brief and rule that it cannot decide the forum non conveniens issue until it first rules on the issue of personal jurisdiction.

Respectfully submitted,

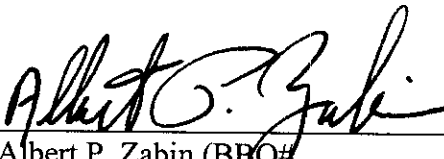
SHELDON G. ADELSON

By his attorneys

CERTIFICATE OF SERVICE

I hereby certify that on this day a true and correct copy of the above document was served upon the attorney of record for each party ~~by mail~~/by hand.

Dated: 1/19/05 RPZ


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Dated: January 19, 2005